



Resolution # HSRA 14-09

**Certification of the California High-Speed Train
Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the
Fresno to Bakersfield Section**

WHEREAS, pursuant to the California High-Speed Rail Act, Public Utilities Code section 185000, et seq., the California High-Speed Rail Authority (“Authority”) was created in 1996 to direct the development and implementation of intercity high-speed rail service that is fully integrated with the state’s existing intercity rail and bus network,

WHEREAS, the Authority has chosen to use under the California Environmental Quality Act (CEQA) a tiered environmental review and decision making process to identify preferred alignments and station locations for the high-speed train system,

WHEREAS, the Authority together with the Federal Railroad Administration (FRA) completed a first-tier, Program Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the statewide high-speed train (HST) system in 2005 that evaluated the potential environmental impacts of the statewide HST alternative, as well as other transportation expansion alternatives and a no project alternative,

WHEREAS, following completion of the 2005 Program EIR/EIS, the Authority and FRA rejected non-HST alternatives and approved general alignments and station locations (such as the BNSF corridor between downtown Fresno and downtown Bakersfield) for further study in second-tier, project-level environmental documents, and directed staff to prepare a separate first-tier, program EIR/EIS for the Bay Area to Central Valley route,

WHEREAS, the Authority certified and the FRA approved a first-tier, Bay Area to Central Valley HST Final Program EIR/EIS in 2008, and the Authority certified a Partially Revised Final Program EIR in 2012,

WHEREAS, the Authority certified and the FRA approved a second-tier Merced to Fresno Section Final EIR/EIS in 2012 and approved an alignment and station locations in that section including a station in downtown Fresno at Mariposa Street,

WHEREAS, the Authority commenced preparation of a second-tier Fresno to Bakersfield Section project EIR/EIS in 2009, releasing for public comment a Draft EIR/EIS in August 2011 and a Revised Draft EIR/Supplemental Draft EIS in July 2012, which documents evaluate

construction and operations impacts of the HST system between downtown Fresno and downtown Bakersfield,

WHEREAS, subsequent to public circulation of the Draft EIR/EIS documents, in decisions in April and June 2013, the federal Surface Transportation Board (STB) concluded that it has jurisdiction over the entire HST system, including the Fresno to Bakersfield section. The STB's jurisdiction derives from the provisions of the Interstate Commerce Commission Termination Act of 1995 (ICCTA). Under Section 10501(b) of that Act, the STB's jurisdiction is exclusive for all transportation by rail carriers, including the facilities and structures that are an integral part of that transportation. Section 10501(b) also expressly states that "the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal and State law." The scope of that preemption as relates to the HST project and CEQA is currently under court review. The Authority makes this certification without waiving the Authority's rights regarding the application of the Interstate Commerce Commission Termination Act of 1995 (ICCTA), including the defense that ICCTA and the STB's jurisdiction preempt CEQA's application to the Fresno to Bakersfield Section and the Authority's decision(s) regarding it,

WHEREAS, various federal, state and regional agencies may make decisions or issue permits for HST activities within the area covered by the Fresno to Bakersfield Section and will be able to use the Fresno to Bakersfield Section Final EIR/EIS if and as required by applicable law,

WHEREAS, the Authority chose to complete the Fresno to Bakersfield Section environmental analysis in the form of a Final EIR/EIS, consistent with both CEQA and the National Environmental Policy Act (NEPA), which document evaluates construction and operations impacts of the HST system between downtown Fresno and downtown Bakersfield,

WHEREAS, on April 18, 2014, the Authority and FRA issued a Final EIR/EIS and made it publicly available on the Authority website and at libraries in the Central Valley, and that the California High-Speed Train Final EIR/EIS for the Fresno to Bakersfield Section is defined further to include Volumes I to V issued on April 18, 2014 and any additional volumes and/or errata issued subsequent to April 18, 2014,

NOW, THEREFORE, IT IS RESOLVED by the California High-Speed Authority as follows:

The Authority hereby certifies that:

- (a) the California High-Speed Train Final EIR/EIS for the Fresno to Bakersfield Section has been completed in compliance with CEQA;
- (b) the California High-Speed Train Final EIR/EIS for the Fresno to Bakersfield Section has been presented to the Authority Board and the Board has reviewed and considered the information contained in the Final EIR/EIS for the Fresno to Bakersfield Section;

(c) the California High-Speed Train Final EIR/EIS for the Fresno to Bakersfield Section reflects the Authority's independent judgment and analysis; and

IT IS FURTHER RESOLVED that this certification does not waive the Authority's rights to the application of the ICCTA and does not waive any available defenses associated with the ICCTA and STB's jurisdiction, as noted above.

Vote: 7 – 0

Date: May 7, 2014

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